

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

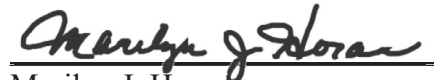
<b>CHERYLANN BORGHETTI, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>Civil No. 19-798</b>
	)	
	)	
<b>CBD USA GROWN, INC., et al.</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

On October 14, 2020, Plaintiffs obtained a default judgment against Defendants CBD USA Grown, Inc., KMA Holdings Group, LLC, and Greenleaf Golden Enterprises, LLC (the Corporate Defendants). ECF No. 78. In pursuit of enforcing the judgment, plaintiffs have engaged in discovery in aid of execution of the judgment by filing, in part, third-party subpoenas directed to banks and businesses associated with the Corporate Defendants. Plaintiffs have sought to enforce compliance with its subpoenas by filing in this Court several Motions to Compel Compliance with Third Party Subpoena Pursuant to Rule 45. ECF Nos. 94, 109, 110. Presently before the Court are two additional Motions to Compel Compliance with Third-Party Subpoenas. ECF Nos. 130 & 131. First, Plaintiffs filed a Second Motion to Compel Compliance with a Third-Party Subpoena directed to Folium Biosciences, which is located in Colorado Springs, Colorado. ECF No. 130. Next, Plaintiffs filed a Third Motion to Compel Compliance with a Third-Party Subpoena directed to BBVA USA, which is located in Birmingham, Alabama. ECF No. 130. In its Motion directed to BBVA USA, Plaintiffs also seek sanctions pursuant to Rule 45(g). Id.

Rule 45 requires that the party seeking compliance with its subpoena file such motions to compel in “the district where compliance is required.” Fed. R. Civ. P. 45(d)(2)(B)(i) (“At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection”). See United States ex rel. Ortiz v. Mount Sinai Hosp., 169 F. Supp. 3d 538, 544 (S.D.N.Y. 2016) (remedy for non-compliance with subpoena is to file a motion to compel in the district where compliance was required). Rule 45(g) also requires that motions for contempt are to be filed in the court where compliance is required. Fed. R. Civ. P. 45(g). As neither of the pending Motions to Compel were filed “in the court for the district where compliance is required” said Motions will be denied without prejudice to refiling the motion in the proper court. JMC Restaurant Holdings, LLC v. Pevida, 2015 WL 2240492 (E.D.N.Y. May 12, 2015) (Eastern District of New York denied motion to compel where compliance was required in the Southern District of New York, without prejudice to renewal of the motion in the Southern District).

AND NOW, now this 1<sup>st</sup> day of September, it is hereby Ordered that Plaintiffs’ Second Motion to Compel Compliance with Third Party Subpoena Pursuant to Rule 45 directed to Third-Party Folium Biosciences (ECF No. 130) and Plaintiffs’ Third Motion to Compel Compliance with a Third-Party Subpoena and Request for Sanctions directed to BBVA USA (ECF No. 131) are DENIED without prejudice to refile the motions in the proper court.

  
Marilyn J. Horan  
United States District Judge